

PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paper Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

AF  
22W

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	09/264,065	
	Filing Date	3/8/1999	
	First Named Inventor	Joel D. Peshkin	
	Examiner Name	Kevin M. Burd	
	Art Unit	2631	
Total Number of Pages in This Submission	8	Attorney Docket Number	01CON222P

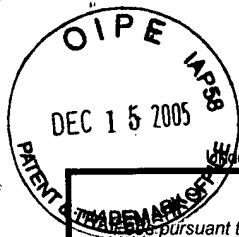
ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Reply Brief (6 pages)
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Farshad Farjani, Esq., Reg. No. 41,014
Signature	Farjani & Farjani, LLP.
Date	December 13, 2005

CERTIFICATE OF MAIL	
I hereby certify that this correspondence is deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Type or printed name	Lesley L. Ning
Signature	Date December 13, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

In you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



PTO/SB/17 (12-04)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/8/2004.  
Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2005

**Complete if Known**

Application Number	09/264,065
Filing Date	3/8/1999
First Named Inventor	Peshkin, Joel D.
Examiner Name	Burd, Kevin M.
Art Unit	2631
Attorney Docket No.	01CON222P

☐ Applicant Claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$)**0.00****METHOD OF PAYMENT** (check all that apply)

- ☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_
- ☒ Deposit Account Deposit Account Number: 50-0731 Deposit Account Name: Farjami & Farjami LLP
- For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)
- ☐ Charge fee(s) indicated below ☐ Charges fee(s) indicated below, except for the filing fee
- ☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Small Entity Fee (\$)	Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>	<b>Multiple Dependent Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 20 or HP = _____	x _____	= _____				

HP = highest number of total claims paid for, if greater than 20

<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 3 or HP = _____	x _____	= _____	

HP = highest number of independent claims paid for, if greater than 3

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41 (a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other: \_\_\_\_\_

**SUBMITTED BY**

Signature	Registration No. (Attorney/Agent) 41014	Telephone (949) 282-1000
Name (Print/Type) Farshad Farjami, Esq.		Date 12/13/05

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Attorney Docket No.: 01CON222P  
Serial No.: 09/264,065

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Applicant(s): Peshkin, et al.</b>	<b>Group Art Unit: 2631</b>
<b>Application Serial No.: 09/264,065</b>	<b>Examiner: Burd, Kevin M.</b>
<b>Filed: March 8, 1999</b>	
<b>Title: Methods and Apparatus for Communicating Commands and Data Using Logical Channels</b>	

**REPLY BRIEF**

BOX AF  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir/Madam:

This is a Reply Brief under 37 CFR § 1.193 in response to the Examiner's Answer, dated  
November 1, 2005.

**REMARKS**

**A. Withdrawal of Rejection of Claim 55**

Applicant acknowledges and appreciates the Examiner's statement in the Answer that he has found Appellant's arguments persuasive and has withdrawn his rejection of claim 55.

**B. Rejection of Claims 1 and 4-53 under 35 U.S.C. §103 over Lumpkin in view of Noyes**

Applicant respectfully submits that each of independent claims 1, 4, 20, 31 and 42 recites that command information controls or is for controlling telephone line operations of the modem. It is the Examiner's position that the above limitations are disclosed in Lumpkin. Applicant respectfully disagrees with the Examiner's characterization of Lumpkin and interpretation of the above limitations. In the Answer, the Examiner states that:

Lumpkin discloses for transfer of data from the DTE 200 through the data communications device 201 and to the network 104 (column 7, lines 49-51), commands are generated such as acknowledgements and interrupts to allow data transmission to the network to commence (column 7, line 65 to column 8, line 16). That data will be transferred through registers and then will be transmitted over the network (column 8, lines 10-16). Therefore, the command information controls the data transmitted or received over the telephone lines connecting the modem and the network. This is the "controlling telephone line operations of the modem" or the data pump. (Answer, Page 4, line 6 – Page 5, line 1.)

Applicant respectfully submits that "command information for controlling the data transmitted or received over the telephone lines" is sharply different than "command information for controlling the telephone line operations of the modem." Therefore, the Examiner's conclusion is incorrect.

Those of ordinary skill in the art of modem design and communication understand that a

modem has two distinct interfaces, namely a DTE (data terminal equipment) interface and a DCE (data circuit equipment) interface. The DTE interface of the modem is utilized for communication between a local computer or terminal and the modem. The DCE interface, on the other hand, is utilized for communication over the telephone line with a remote modem.

In Lumpkin, the DTE interface includes a DMA (direct memory access), and the commands in Lumpkin, which are relied upon by the Examiner, are for controlling the DMA, or as the Examiner puts it, in Lumpkin, “command information controls the data transmitted or received over the telephone lines.” In other words, the command information of Lumpkin controls or manages the data and not the DCE operation of the modem, and the data simply passes through the DCE to the remote modem and does not control the telephone line operations of the modem. Therefore, contrary to the Examiner’s conclusion, Lumpkin’s commands are for controlling the operations of the DMA at the DTE interface.

On the other hand, independent claims of the present application recite “command information for controlling the telephone line operations” of the modem, i.e. the commands for controlling the DCE interface. This is a key distinction between Lumpkin and the invention of independent claims 1, 4, 20, 31 and 42.

For example, “a command to call a telephone number,” as recited in the independent claims, instructs the DCE to take the telephone line off-hook and to generate DTMF tones or pulses on the telephone line for dialing a phone number. As a further example, “a command to answer an incoming call,” as recited in the independent claims, instructs the DCE to take the telephone line off-hook for answering an incoming call. As stated in the Appeal Brief, Appellant does not contend that “a command to call a telephone number” and “a command to answer an

incoming call” are novel modem commands; however, it is Appellant’s contention that these example commands illuminate the sharp contrast between the DMA commands at the DTE interface of the modem and the commands for controlling the telephone line operations of the modem.

In his Answer, the Examiner further references Appellant’s statement that “there is no teaching or suggestion in Lumpkin to divide the data information channel of the DMA into modem data information and modem command information, let alone any such teaching or suggestion by Noyes,” and the Examiner responds that claim 1 does include such limitation. Applicant respectfully submits that the Examiner has misapprehended Appellant’s point. It is Appellant’s position that since the command channel in Lumpkin merely carries DMA commands, these commands are not passed on to the modem command processing for controlling the telephone operations of the modem. Since, in Lumpkin, merely the data within the data channel reaches the modem command processing, if there are any commands for controlling the telephone line operations of the modem, such commands must be embedded in the data channel of Lumpkin; however, there is no teaching in Lumpkin that the data channel is further divided to include a logical channel for carrying the commands for controlling the telephone line operations of the modem and a logical channel for carrying the data. Therefore, Lumpkin could not possibly pass on commands from the DMA to the modem command processing on a logical command channel for controlling the telephone line operations of the modem. However, independent claims 1, 4, 20, 31 and 42 of the present application clearly recite a logical channel division such that, for example, a logical command channel carries command information for controlling telephone line operations of the modem and a logical data

channel carries data.

Furthermore, neither Lumpkin nor Noyes remotely suggests the desirability of modifying Lumpkin to include a logical channel for carrying commands for controlling the telephone line operations of the modem.

Accordingly, Appellant respectfully submits that independent claims 1, 4, 20, 31 and 42, and their respective dependent claims, should be allowed.

**C. Rejection of Claim 54 under 35 U.S.C. §103 over Lumpkin in view of Noyes, and further in view of Johnson**

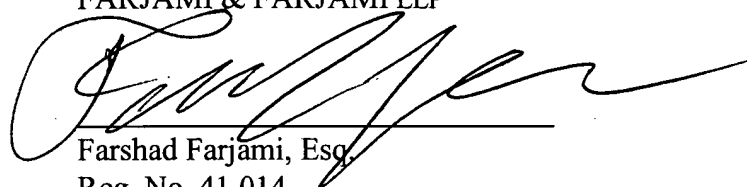
---

It is respectfully submitted that claim 54 depends from claim 4 and should be allowed for the reasons stated above and in the Appeal Brief.

**D. Conclusion**

Based on the foregoing reasons, the present invention, as defined by independent claims 1, 4, 20, 31 and 42, and claims depending therefrom, is patentably distinguishable over the art cited by the Examiner. Appellant respectfully requests a favorable decision on claims 1 and 4-54 pending in the present application.

Respectfully Submitted,  
FARJAMI & FARJAMI LLP

  
Farshad Farjani, Esq.  
Reg. No. 41,014

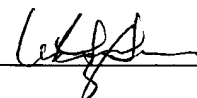
FARJAMI & FARJAMI LLP  
26522 La Alameda Ave., Suite 360  
Mission Viejo, California 92691  
Telephone: (949) 282-1000  
Facsimile: (949) 282-1002

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date of Deposit: Dec. 13, 2005

LESLIE L. NING  
Name of Person Mailing Paper and/or Fee

 12/13/05  
Signature Date